IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 2ND JANUARY 2007 / 12TH PAUSHA 1928

WP(C).No. 33912 of 2006(K)

PETITIONER:

NEETHA PAUL, AGED 31 YEARS,
W/O.JOBY P.ABRAHAM, HSA (SS),
T V J M H S, PINDIMANA, CHELAD,
KOTHAMANGALAM.

BY ADV. SRI.SABU GEORGE

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY, GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT EDUCATIONAL OFFICER,
KOTHAMANGALAM.

3. THE MANAGER,
T V J M H S, PINDIMANA,
CHELAD, KOTHAMANGALAM.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO. 33912 of 2006

Dated this the 2nd day of January, 2007

JUDGMENT

The petitioner stands retrenched from service for want of adequate number of divisions and posts in the school managed by the third respondent. This happened while she was having to her credit service of 9 years and 2 months. It is contended that the petitioner can be granted the benefit of protection if the said benefit is extended to all those who were in service or those who had commenced service in the academic year 1996-1997. Another contention is that, by Ext.P3 order, a teacher having lesser length of service than the requisite service length has been granted the benefit of protection, and therefore, similar benefits shall be granted to the petitioner also. These two contentions have been rejected by the Government as per Ext.P9 while considering the representations filed by the petitioner. Hence, Ext.P9 order of the Government is under challenge.

2. In order to sustain the challenge against Ext.P9, the petitioner has taken up the contention that the date stipulated in Ext.P2 G.O. namely, 14.7.1997 for identifying teachers who are entitled for the benefit of protection is arbitrary and discriminatory. According to the

petitioner, the date 14.7.1997 has no relevance. If the object of granting protection has to be extended to the teachers, the same should be given to all those who commenced service in the relevant academic year, namely 1997-1998 and shall not be limited to teachers who commenced service on or before 14.7.1997.

3. I am not impressed by the above contention. 14th July of every year has got relevance as far as aided school teachers governed by the provisions of the Kerala Education Rules are concerned. 14th July is the date fixed for fixing the staff strength of the schools concerned by the educational officer. The number of divisions will be determined as on that date. The contention that once the Government decides that appointments made before 14th July 1997 can be taken note of for the purpose of protection, the same concession should be extended to appointments made thereafter also cannot be accepted. There is nothing arbitrary or irrational in fixing 14th July 1997 as the cut off date.

4. Protection is a concession granted by the Government by issuing executive orders from time to time. It is not a right or benefit relatable to any statutory provision. In fact, Government have passed orders notwithstanding the statutory provisions contained in the Kerala Education Rules. Hence it is not proper for this Court to extend

the benefit of such concessions to more categories of teachers. The petitioner unfortunately could not commence service prior to 14th July 1997. She do not have the requisite period of service to come within the purview of Ext.P2 G.O. granting the benefit of protection.

5. I find no error in Ext.P9. The stand taken by the Government that the fact that deviation made in the case of one teacher shall not set a bad precedent does not call for interference. It is the correct stand. More instances of deviation by the Government need not happen or perpetuated at the instance of this Court. It is not just and proper to direct the Government to violate its own general orders and grant special concessions to any individual or group of individuals.

The writ petition is devoid of merit. Dismissed.

K.K.DENESAN, JUDGE

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